# MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C.

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MERITAS LAW FIRMS WORLDWIDE

August 31, 2004

TTAB

Via U.S. Express Mail

United States Patent and Trademark Office Trademark Trial and Appeal Board 2900 Capital Drive Arlington, VA 22202-3513

Re:

Walters Gardens, Inc. vs. Pride of Place Plants, Inc.

Opposition No. 91153755 Our File No. 95043.003

Dear Sir or Madam:

Please find enclosed thirteen Notices of Reliance Under Rule 2.122(E) in triplicate, Certificate of Service and Certificate of Express Mail for filing in the captioned opposition.

Thank you for your assistance.

Very truly yours,

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C.

By

Barry C. Kane

BCK/nf Enclosures



# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

WALTERS GARDENS, INC.	)		
Opposer, vs.	) ) )	Opposition N	No. 91153755
PRIDE OF PLACE PLANTS, INC.	) ) )	Mark: Serial Nos:	PIILU 76/201/447
Applicant.	)	Filed:	January 29, 2001
	)		

# **CERTIFICATE OF EXPRESS MAILING**

I hereby certify that the attached Notices of Reliance Under Rule 2.122 and related papers are being deposited with the United States Postal Service using Express Mail Service, Express Mail Label No. EV 436 430 612 US in an envelope addressed to:

Trademark Trial and Appeal Board U.S. Patent and Trademark Office 2900 Crystal Drive, Suite 9B40 Arlington, VA 22202

on August 3, 2004.

Barry C. Kane

Miller, Johnson, Snell & Cummiskey, P.L.C.

P.O. Box 306

250 Monroe Avenue, N.W., Suite 800

Grand Rapids, MI 49501-0306

(616) 831-1700



# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

WAL	TERS GARDENS, INC.	)	
	Opposer, vs.	) Opposition	n No. 91153755
PRID	E OF PLACE PLANTS, INC.	) Mark: ) Serial Nos	PIILU : 76/201/447
	Applicant.	) Filed: ) )	January 29, 2001
To:	Gary J. Nelson CHRISTIE, PARKER & HALE, LI	<i></i> / P	

To: Gary J. Nelson
CHRISTIE, PARKER & HALE, LLP
Attorneys for Applicant
350 W. Colorado Blvd., Suite 500
P.O. Box 7068
Pasadena, California 91109-7068
(626) 795-9900

# NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its intent to rely upon the 1995 publication entitled, "International Code of Nomenclature for Cultivated Plants," edited by Trehane et al., and published by Quarterjack Publishing. The publication was published in 1995 and assigned ISBN 0 948117 X. Pages 6-14, 19-25, and 49 will be relied upon.

The International Code of Nomenclature for Cultivated Plants was published by the International Association for Plant Taxonomy, acting for and on behalf of the International Commission for the Nomenclature of Cultivated Plants. The Commission was created under the auspices of the International Society for Horticultural Science. The International Code of Nomenclature for Cultivated Plantsis in general circulation among members of the public and constitutes the recognized authority in the horticulture industry for identifying, naming, registering, and using cultivar names. As such, it is relevant to the extent that it supports Opposer's position that Applicant's mark is used by Applicant in a form traditionally used in plant names, rather than in the form of a trademark. The entire publication is relevant to Opposer's case. In particular, Opposer

makes special reliance upon Articles 2 through 4, Article 7, Article 17 regarding the form for names of cultivars, and page 49 designating the Royal Horticultural Society as the International Cultivar Registration Authority (ICRA) for the genus *Clematis*. This document was produced in its entirety by Opposer to Applicant under Bates numbers WG 0086 through WG0182.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August 31, 2004

By Barry C. Kane

**Business Address:** 

250 Monroe Avenue, N.W., Suite 800

PO Box 306

Grand Rapids, Michigan 49501-0306

Telephone: (616) 831-1700

# INTERNATIONAL CODE OF NOMENCLATURE FOR CULTIVATED PLANTS - 1995

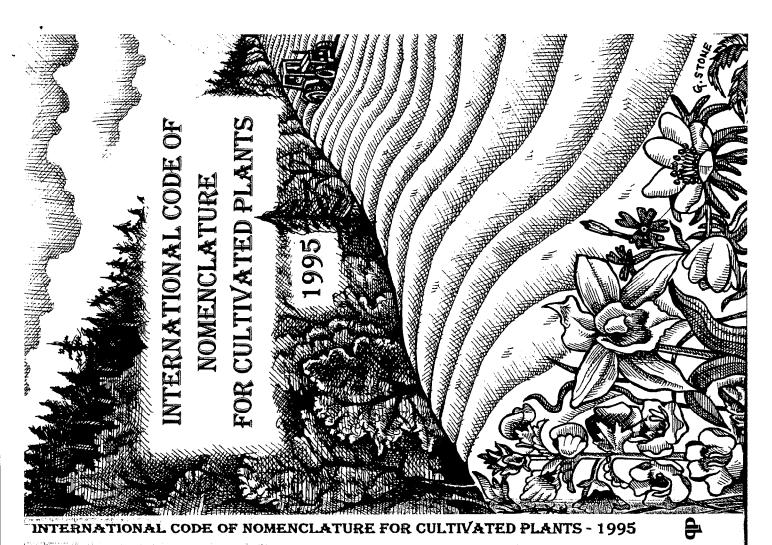
The international rules for naming agricultural, forestry and horticultural plants presented in a thoroughly updated edition for use by everyone concerned with the accurate naming of plants.

With a number of appendices, including directories of registration authorities, quick guidelines for forming new names, a list of existing checklists and a comprehensive glossary, this work provides an invaluable tool for those needing to form and maintain the correct names for man's own plants.

# An indispensable reference for:

Plantsmen
The nursery trade
Raisers of new plants
Compilers of plant directories
Authors and Editors
Journalists
Teachers
Taxonomists
Governmental bodies
Registration authorities





# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

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Opposer, vs.	) Opposition N	No. 91153755
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To: Gary J. Nelson
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350 W. Colorado Blvd., Suite 500
P.O. Box 7068
Pasadena, California 91109-7068
(626) 795-9900

# NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its reliance upon "The International Clematis Register and Checklist 2002," a printed publication available to the general public in libraries or in general circulation among members of the public or that segment of the public which is relevant to the issue of the opposition. Pages 7-14, 253, 355-367 are relied upon. Pertinent sections of the publication were produced by Opposer under Bates numbers WG0001 through WG0013 and WG0363 through WG0371.

"The International Clematis Register and Checklist 2002" (the "Checklist") is relevant to whether the applicant's mark is considered that of a plant cultivar or variety. The Checklist is published by the Royal Horticultural Society and is available worldwide. The Royal Horticultural Society was appointed as the International Cultivar Registration Authority ("ICRA") for the genus of *Clematis* in 1994 and is the authority for officially recognizing cultivar epithets together with the botanical names. Testimony by experts in the field of horticulture, and in particular to the genus *Clematis* reveal that this

publication is the official text for ascertaining whether a particular cultivar name has been recognized.

Page 253 of the Checklist shows that 'Piilu' was officially registered as a hybrid cultivar name in 1984 by the plant breeder Uno and Aili Kivistik. The cultivar name was registered through the Estonian Plant Production Inspectorate Variety Control Department in Viljandi, Estonia, the authority for the country of residence for Mr. Kivistik. Page 363 of the text makes reference to Aili and Uno Kivistik as the breeders of the 'Piilu' variety.

The plants being offered for sale in this country by applicant are provided by the Kivistik family in Estonia.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August 3, 2004

Barry C. Kane

**Business Address:** 

250 Monroe Avenue, N.W., Suite 800

PO Box 306

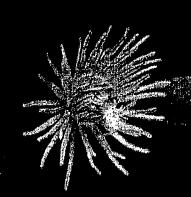
Grand Rapids, Michigan 49501-0306

Telephone: (616) 831-1700

# THE INTERNATIONAL CLEMATIS REGISTER and CHECKLIST 2002



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To: Gary J. Nelson
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Attorneys for Applicant
350 W. Colorado Blvd., Suite 500
P.O. Box 7068
Pasadena, California 91109-7068
(626) 795-9900

# NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its intent to rely upon a book entitled, "List Catalogue of Large Flowered Clematis," by Guido Toovere. This book is available in general circulation among members of the public and particularly that segment of nurserymen and enthusiasts of Clematis plants. The contents of the book are relevant to the issue of the opposition: that is whether the mark sought to be registered by the Applicant is a recognized cultivar name. The inside cover, page 3 and page 56 are relied upon.

The book was published in 1992 in both English and Polish. The book describes new Clematis hybrids being offered for sale and available to the public. On page 56 the author describes the hybrid 'Piilu' as originating from the breeder Kivistik in 1984 as a result of crossing two other types of plants. This text is consistent with the text appearing

in other publications relied upon by Opposer. This publication was produced by Opposer and marked by bates numbers WG0415 through WG0420.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August 31, 2004

By Barry C. Kane

Business Address:

250 Monroe Avenue, N.W., Suite 800

PO Box 306

Grand Rapids, Michigan 49501-0306

Telephone: (616) 831-1700

Guido Toovere

SUUREÕI ELISTE
ELULÔNGADE
NIMEKIRI-KATALOOG

WG0415

# Guido Toovere

# SUUREÕIELISTE ELULÕNGADE NIMEKIRI-KATALOOG

# LIST-CATALOGUE OF LARGE-FLOWERED CEEMATIS

Teine, ümbertöötatud trükk Second edhion, revised

Tallinn 1992

### SISSEJUHATUSEKS

Üheksa aastat on möödunud "Suureõieliste elulõngade nimekirjakataloogi" ilmunisest. Selle aja jooksul on juurde aretatud hulgaliselt uusi elulõngahübriide. Eriti märkimisväärset tööd on teinud Eestis uute elulõngahübriidide aretamisel Uno ja Aili Kivistik. Nende poolt aretatud perspektiivsemad elulõngahübriidid, mida nad ka paljundavad ja levitavad, on nimekirjas ära toodud.

Nimekirjast on välja jäetud sordid ja hübriidid, mille öied oma kuju, värvuse või vähese õitsemise tõttu ei ole dekoratiivsed.

Sortide ja hübriidide kirjeldustes toodud andmed õite suuruse, õitsemisaja ja taime kõrguse kohta on ligikaudsed; need kõiguvad kasvukohast, ilmastikust, taimede hooldamisest, väetamisest ja kastmisest olenevalt.

Ka õite varvus on muutlik, sest iga õis õitseb vähemalt kaks nädalat. Avanedes on õie värvus tumedam, oma õige värvuse omandab ta paari päeva jooksul ja pleekub aeglaselt õitsemisperioodi lõpuks.

Elulôngarühmad (jackmanii-, viticella-, lanuginosa-, integrifolia-, patens-, florida- ja texensis-rühm) on moodustatud sortide ja hübriidide põlvnemise põhjal vastavatest liikidest:

Autor

### INTRODUCTION

Nine years have passed since a List-Catalogue of Large-Flowered Clematis appeared. During this period of time a number of new clematis hybrids have been bred. In Estonia most noteworthy work in this field has been conducted by Uno and Aili Kivistik. The present Catalogue features the most promising of the hybrids introduced and multiplied and spread by them.

The List-Catalogue excludes varieties and hybrids the flowers of which lack decorative features either because of the shape or colour of flowers, or which have lineatisfactory abundance.

The List-Catalogue provides approximate data on the size of flowers, as well as flowering season and plant height, as they vary due to different places of growth, weather conditions, cultivation, fertilizing and watering. The colour of flowers tend to change, as each bloom stays for at least a fortnight. The hue tends to be of darker shade when it opens, the real colour is revealed only after a few days, and by the end of the flowering season the hue fades away.

Groups of clematis (jackmanii, viticella, lanuginosa, integrifolia, patens, florida and texensis) are made up according to the origination of varieties and hybrids from corresponding species.

The author

Märjamaa, jackmanii-rühm Öled sinised. Tolmukad punakaspruunid. Õltseb juulist septembrini. Õle läbimõõt 8-10 cm. Õlelehti 6. Taime kõrgus 1,8 m. Tugevasti tagasi lõigata. Aretanud U. ja A. Kivistik 1981.a. aretisest 'Ernest Markham' x õletolmu segu.

Märjamus, Jackmanii group Blue flowers, Reddish brown stamens Flowering season from July till September. Flower diameter 8-10 cm. 6 sepals. Height up to 1.8 metres. Prune hard, Bred in 1981 by U. and A. Kivistik by crossbreeding Ernest Markham'x mixed pollen.

Paala, patens-rühm Öjed lavendelroosad Tolmukad pruunikaskollased Citseb juuni lõpus ja juulis. Õie läbimõõt 16 cm. Õielehti 6-8. Paime kõrgus 1,4 m. Tagasi ei lõigata. Aretanud U. ja A. Kivistik 1982.a. aretisest 'Mme Bojun' x õietolmu segu. Õitseb väga rikkalikult.

Paala, Pstens group
Lavender pink flowers. Brownish beige stamens. Flowering season at the end of June and in July. Flower diameter 16 cm. 6-8 sepals. Height up to 1.4 metres. No pruning. Bred in 1982 by U. and A. Kivistik by cross-breeding 'Mme Bojun' x mixed police, Marked with abundant flowering.

Pillu, patens-riihm Ĉied lavendelroosad, punase triibuga: Tolmukad kollased. Ĉitseb juuliat septembrini. Ĉie läbimĉĉt 11 cm. Ĉielehti 4, 5, 6. Taime kôrgus 1,8 m. Tagasi ei lõigata. Aretanud U. ja A. Kivistik 1984.a. aretisest Hagley Hybrid'x Mahrovĉi. Ĉitseb väga rikkalikult.

Pillu, Patens group
Lavender pink flowers with a red stripe. Yellow stamens. Flowering season from from July till September. Flower diameter 11 cm. 4, 5, 6 sepals. Height up to 1.8 metres. No pruning, Bred in 1984 by U. and A. Kivistik by crossbreeding 'Hagley Hybrid' x Mahrovyi. Marked with abundant flowering:

Põhjanael, jackmanii-rühm Õied helelavendelsinised, punase triibuga. Tolmukad punalillad. Õitseb juulist septembrini. Õie läbimõõt 15 cm. Õjelehti 6. Talme kõrgus 1,5 m. Tugevast tagasi lõigata. Aretanud U. ja A. Kivistik 1981a. aretisest Ernest Markham'x õietolmu segu. Õitseb väga rikkalikult.

Pôhjansel, Jackmanii group Light lavender blue flowers with a red stripe. Purple stamens. Flowering season from July Lill September, Flower diameter 15 cm. 6 sepals. Height up to 1.5 metres. Prune hard. Bred in 1981 by U. and A. Kivistik by cross (lowe

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Reiu, Rosy Flowe Kivis Ilowe

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### 6. THE ESTONIAN CLEMATIS CLUB

The Estonian Clematis Club is quite young, formed in 1989 as a branch of the Estonian Horticultural and Apicultural Society and assembles Estonian clematis grovers-enthusiasts. Members have held successul meetings where they have exchanged plants and information on the propagation and cultivation of clematis. These meetings have included visits to gardens where clematis are featured or grown for commercial sales. Sole important growers and propagators of clematic in Estonia:

Mrs. Elvi Arukaevu,

Mr. Eino Kala,

Mrs. Aino Kuningas, Mrs. Erika Mahhova,

Mr. Heino Pauts,

Mr. Erich Pranno.

Mr. Rudolf Reiman,

Mr. Alari Sarv,

Mr. Guido Toovere,

Mustika 4, EE2230 Aegviidu, Estonia Ôhtu pst. 16, EE2210 Tapa, Estonia Mr.& Mrs. Uno and Aili Kivistik, Karla, Kose sjk., EE3040 Harjumaa,

Estonia

Pôdra 48, EE0009 Tallinn, Estonia Lodjapuu tee 35, EE0021 Tallinn,

Estonia

Kaluri 9, EE3170 Haapsalu, Estonia

Kaiu, EE3513 Raplamaa, Estonia Aia 3 EE2260 Aruküla, Estonia Tüüle tee 36, EE0021 Tallinn, Estonia Mõtuse 8, EE0006 Tallinn, Estonia

The Estonian Horticultural and Apicultural Society The Estonian Clematis Club

> Mrs. Külvi Kaus Hon. Secretary Mustamäe tee 60 EE0108 Tallinn ESTONIA

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2.	Eestis a	retatu	d Buur	ecitlise	d elui	ongao	5 7 7 7		. 48
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٠.	Nôukogu	de Lu	aus ar	etatun	suure	oremaed	GIUIGII	zau	- Contraction
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4.	Elulônga	ide ibt	ucemin	s ja nu	Oldanii	110	, m	1.42	
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### CONTENTS

	· 2017年的基本的基本的特殊的。		the same of the sa	ALCOHOLD TO SERVICE AND A SERV	
	Introduction	and the state of t	the state of the state of the state of	and the contract of the same	MEDANGERS (1987年年3月1日日 🕶
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1	10年来,2010年,1865年,1865年,1867年,1867年,1867年,1867年,1867年,1867年,1867年,1867年,1867年,1867年,1867年,1867年,1867年,1867年,18	· · · · · · · · · · · · · · · · · · ·	文件。	THE PARTY OF THE P	at the contract that I had
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7	Large-flowered	Comptions	COTANIAM CIVIC	T & The Million of the Confession .	
. 6	TRLX6_TIOMETER	Cicmonio Mi	ADMITTINE AVVE	・ ののでは、	清楚的表示。 2000年代 · 1000年春春
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				·····································	A. 1. 8. 14. A.
			Mamorta	State \$760 500 (1975)	1
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			AT AN ATEM CONSTRUCTOR OF THE PARTY OF		20 10 g 10
. <del></del>	Pruning Clemat	<b>的复数形式的现在分词形式的</b>		profession of the second section of the section of the second section of the section of the second section of the secti	72
	- Priining Giemat	I Broken a region in the state of	The Second Control of the Control of	The comment of the decoration of	상황 병에는 그는 이 원들에 🛏
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7	Literature Usec	The state of the s	and the constitution of the second	人名巴克 法人名德格勒斯特	NAME AND A SAME AND AS
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# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

WAI	LTERS GARDENS, INC.	)	
	Opposer, vs.	Opposition I	No. 91153755
PRIE	DE OF PLACE PLANTS, INC.  Applicant.	) Mark: ) Serial Nos: ) Filed:	PIILU 76/201/447 January 29, 2001
-		)	, ,
To:	Gary J. Nelson CHRISTIE, PARKER & HALE, L Attorneys for Applicant	LP	

350 W. Colorado Blvd., Suite 500

Pasadena, California 91109-7068

P.O. Box 7068

(626) 795-9900

# NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its reliance upon "An Illustrated Encyclopedia of Clematis," by Mary Toomey and Everett Leeds, a book available to the general public in libraries or in general circulation among members of the public or that segment of the public which is relevant to the issue of the opposition. Pages 19-31, 318, 319, and 417-426 are relied upon. This publication was produced by Opposer and marked by bates numbers WG0346 through WG0354.

The Illustrated Encyclopedia of Clematis is relevant to the issue of whether applicant's mark is name for a plant cultivar or variety. The book was published Timber Press in Portland, Oregon in 2001 and contains 426 pages. The book is assigned ISBN No. 088192408X and includes bibliographical references on pages 417, 418.

The book includes contributions by Maurice Horn, an individual providing testimony in this matter on behalf of Opposer. The book also includes a detailed description of the *Clematis* 'Piilu' cultivar appearing on pages 318 and 319 of the Director of Clematis. There the reader will find information on the origin of the plant

and the translation for the Estonian word "piilu" as little ducking. The parentage of the variety is identified as C. 'Hagley Hybrid' X C. 'Mahrovyi' occurring in 1984. The photograph of the plant is shown on page 319.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August <u>**3**</u>, 2004

By Barry C. Kane

Business Address:

250 Monroe Avenue, N.W., Suite 800

PO Box 306

Grand Rapids, Michigan 49501-0306

Telephone: (616) 831-1700

# An Illustrated Encyclopedia of CLEMATIS

Mary Toomey & Everett Leeds

Photography Editor Charles Chesshire

Published in association with the BRITISH CLEMATIS SOCIETY

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Frontispiece: Clemaire patens in the wild.

Photo by J. Lindmark

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Published in 2001/by
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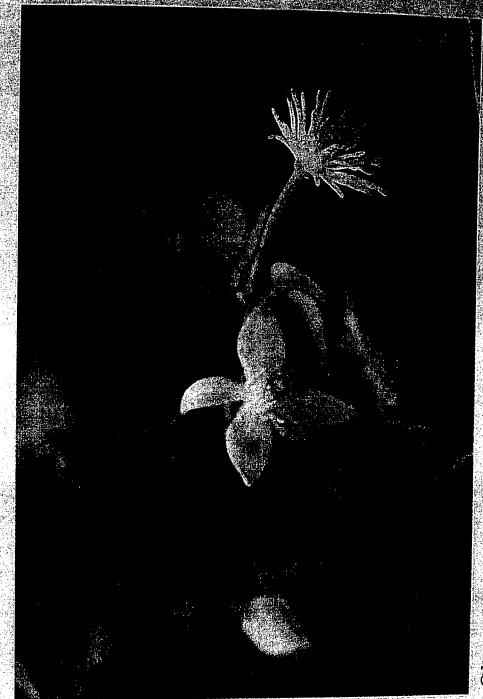
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# Clematis Pillu

Origin: Raised by Uno Kivistik of Harjumaa, Estonia. The name means "little duckling."



Clematis pieratii. Photo by J. Hudson

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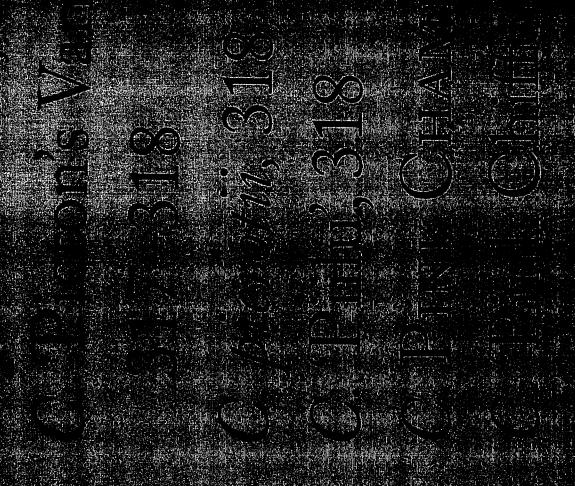
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# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

WALTERS GARDENS, INC.	)		
Opposer, vs.	) ) )	Opposition N	No. 91153755
PRIDE OF PLACE PLANTS, INC.	)	Mark: Serial Nos:	PIILU 76/201/447
Applicant.	)	Filed:	January 29, 2001
	)		
	)		

To: Gary J. Nelson
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Pasadena, California 91109-7068
(626) 795-9900

# NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its intent to rely upon a book entitled, "International Clematis 1999," published annually by the International Clematis Society and available to the general public in libraries or in general circulation among members of the public or that segment of the public which is relevant to the issue of the opposition. The book is available in the New York Botanical Garden Library and the Library of the Chicago Botanic Garden under call number XN.E89683. Cover, pages 1-3 and 27 are relied upon. This publication was produced by Opposer and marked by bates numbers WG0391, WG0392, WG0393, and WG0394.

"International Clematis" is relevant to the issue of whether applicant's mark is a name for a plant cultivar or variety. The book was published by the International

Clematis Society and contains 115 pages. Page 27 of the book make specific reference to the Clematis variety 'Piilu'.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August <u>**3**</u>, 2004

Barry C. Kane

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Grand Rapids, Michigan 49501-0306

Telephone: (616) 831-1700

# Clematis International 1999



#### **CLEMATIS INTERNATIONAL 1999**

#### Journal of the International Clematis Society

Editor: Jonathan Gooch

Opinions expressed by authors or products advertised are not specifically endorsed by the Society or its Editor

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Printed in Great Britain, Print Production by John Moore Englewood, Low Common, Deopham, Wymondham Norfolk, NR18 9DX

Clematis International 1999

Page 1

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2	=
1	ט
2	Ξ
,	?

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FROM THE EDITOR - JON GOOCH	4
PRESIDENT'S ADDRESS - MALCOLM OVIATT-HAM	2
DRESDEN 2000	2
TREASURERS REPORT - HORST WEIHRAUCH	9
INCOME AND EXPENSE REPORT 1st JANUARY 1998 - 31st DECEMBER 1998	7
HONORARY FELLOWS	æ
CONVERSATION WITH MAGNUS JOHNSON - JOHN HOWELLS	œ
LETTER FROM MR KAZUSHIGE OZAWA	12
LETTER FROM BROTHER STEFAN FRANCZAK	14
BROTHER STEFAN FRANCZAK - SZCZEPAN MARCZYNSKI	14
IN MEMORIAM	25
MRS HARVEY - VARIOUS I INO KIVISTIK - FRIKA MAHHOV	202
TRIBUTE TO UNO KIVISTIK'S WORK - RUTH GOOCH & MAURICE HORN	25
Dr John Wurdack	58
VILHELMINE RIEKSTINA – ILMARS RIEKSTINS	30
<b>CLEMATIS REGISTRATIONS</b> - VICKI MATTHEWS	31
1996 REGISTRATIONS	31
1998 REGISTRATIONS	31
WHAT'S IN A NAME?	44
'GENERAL SIKORSKI' & 'JADWIGA TERESA' - VICTORIA MATTHEWS	44
'EARLY SENSATION' & 'SUMMER SNOW' - WALTER HÖRSCH	44
'Rüütel' & 'Pôhjanael' - <i>Fiona Woolfenden</i>	45
CLEMATIS RESEARCH	46
REPORT ON BCS TRIAL GROUNDS - JOHN MASKELYNE	46
TRIAL OF LARGE-FLOWERED CULTIVARS - SILJA KREEN	49
MOVING THE COLLECTION — ILMARS RIEKSTINS	51
UPDATE ON WILT RESEARCH - PIETER VAN DE GRAAF	56
MY TIP FOR WILTED CLEMATIS - DORIS WARMHOLD	29
DNA ANALYSIS OF CLEMATIS - OSAMU MIIKEDA	29
RHS/BCS CLEMATIS EXPEDITION TO CHINA	62
A Novel Plant Expedition - Long Yayi	62
SEVENTEEN GO WILD WITH CLEMATIS - JOHN SIMMONS	63
A FIELD REPORT - RAYMOND EVISON	99

SWEDISH CONFERENCE PAPERS	72
THE STORY OF WILT - DR JOHN HOWELLS	72
ENDEMIC & NATIVE CLEMATIS IN JAPAN - HIROSHI TAKEUCHI	72
CLEMATIS IN AMENITY PLANTATIONS - TOWAS LAGERSTROM	75
CLEMATIS IN LATVIA - AIVARS IRBE	78
SWEDISH/ESTONIAN VISIT - 1998	82
SWEDISH CLEMATIS SOCIETY 1988 - 1998 - WERNER STASTNY	82
A DAY WITH CARL VON LINNÉ - BARBARA KNICKMANN & JÜRGEN SCHMIDT	
JAN LINDMARK'S GARDEN – WALTER HÖRSCH	87
KIVISTIK FARM - FAMILY KIVISTIK	88
MEMORIES OF TWO ESTONIAN GARDENS - ULF SVENSSON	83
ESIONIAN PRIVATE GARDENS – BILL BIRD	91
I ALLINN BUI ANICAL GARDEN – STEFAN I SCHIRKY	95
NEWS FROM THE CLEMATIS WORLD	94
AMERICAN CLEMATIS SOCIETY - EDITH M. MALEK	94
THE 2" INTERNATIONAL GARDENING DAYS IN FREISING - JURGEN SCHMIDT 95	7.95
JAPAN CLEMATIS SOCIETY - HIROSHI TAKEUCHI	96
BLASCHKA GLASS FLOWER COLLECTION - FIONA WOOLFENDEN	26
MY CLEMATIS GARDEN	86
MY FIRST CLEMATIS: OJASHIMA – DORIS WARMHOLD	86
GARDENING ON A HIGH LEVEL IN NORWAY- BERIT KRISTINE ØSTBY	86
CLEMATIS IN CENTRAL NSW - GREG LEE	103
CLEMATIS BREEDERS AND THEIR CLEMATIS	104
GORDON SYKES'S LEONI - GORDON SYKES	104
Janis Bikse - <i>Janis Bikse</i>	104
JANIS RUPLENS - AIVARS IRBE	106
CADSONBURY PLANT BREEDERS - ROBIN MITCHELL	109
BOOK REVIEWS - RUTH GOOCH & FIONA WOOLFENDEN	110
TROUBLE FREE CLEMATIS - THE VITICELLAS BY DR JOHN HOWELLS	110
CLEMATIS FOR ALL SEASONS BY JOHN FELTWELL	110
POWER WILL BY M. A. BECKAPABANHAS	11
POWOJNIKI BY BRAT STEFAN FRANCZAK	111

Clematis International 1999

M Beskaravainaya, R Evison, S Franczak, J Gooch, T Kivistik, Long Yayi, S Marczyński, J Maskelyne, R Mitchell, B Østby, J Ruplens, J Schmidt, J Simmonds, G Sykes, D Warmhold, K Woolfenden.

The Society wishes to thank the following people for permission to use their

Acknowledgements

photographs:-

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Hard Prune.

ply textured surface, pretty satin sheen and white. The reverse has a mid-pink bar. An

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Hard Prune.

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Hard Prune.

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lard Prune.

osy bar. They are broad, narrowing at in the reverse. The stamens are green-

Clematis International 1999

#### 'Marmori' (means Marble)

1986, Height 2m, Flower size 10-15cm, Hard Prune.

6 candy pink sepals with dusky rose shading recurve on opening but flatten and fade to pinkish-white as the bloom matures. The sepals are very deeply textured, have crimped margins and taper to a point. The stamens have white filaments merging to rich rose-pink anthers.

#### 'Mikelite'

1987, Height 2-2.5m, Flower size 12-14cm, Hard Prune.

4 to 6 rich purply-red sepals have a brighter bar, they are broad and taper at both ends. The stamens have white filaments and yellow anthers.

'Miniseelik' (means mini-skirt)

1982, Height 1-1.2m, Flower size 5-8cm, Hard Prune.

6 dusky rose sepals have a paler bar and distinct shading. The stamens have pale purply-white filaments and pale yellow anthers.

#### 'Minister'

1982, Height 2-2.5m, Flower size 12-15cm, Hard Prune.

6 light blue sepals with a rose bar have wavy margins. The reverse has rose coloured ribs on a white bar. The stamens have white filaments and chocolate-red anthers.

'Piilu' (pronounced Pee-loo, means Duckling)

1984, Height 1.5m, Flower size 5-10cm, Light or Hard Prune. With light pruning 'Piilu' will produce double flowers.

4 to 6 mauve-pink sepals with broad rose shading, paling towards the margins, they have a textured surface with irregular white markings. The sepals are broad, have 'frilly' margins and taper to rounded tips. The stamens are pale lemon. A very 'cute' flower!

'Pulmapäev' (means 'Wedding Day', named to honour the wedding of Taavi & Aime)

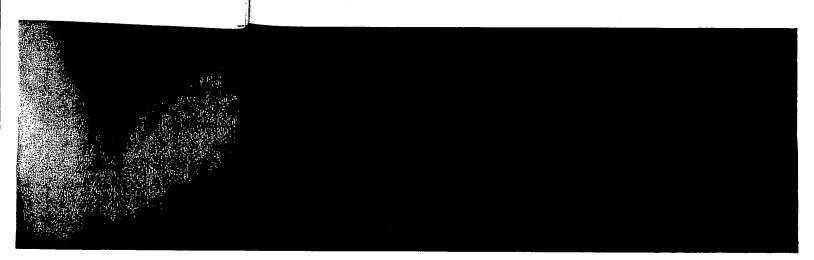
1987, Height 1.5-2m, Flower size 15-18cm, Hard Prune.

6 pearl white sepals are broad with rounded tips. They open boat shaped but flatten as the bloom matures. The stamens have pale yellowy-green filaments and very dark reddy-brown anthers.

WG0394

Clematis International 1999

age 27



# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

WALTERS GAI	RDENS, INC.	)	
vs.	Opposer,	) Opposition No. 91153755	
PRIDE OF PLA	CE PLANTS, INC.	) Mark: ) Serial Nos:	PIILU 76/201/447
	Applicant.	) Filed:	January 29, 2001
		) )	

To: Gary J. Nelson
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#### NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its intent to rely upon an article appearing in the April 15, 1999 issue of the periodical entitled, "American Nurseryman." The article appears on pages 40 through 44 of the periodical and is entitled, "Climbing the Walls," and authored by Applicant's President, Rick Sorenson. This periodical is in general circulation among members of the public and particularly that segment of nurserymen. The content of the article is relevant to the issue of the opposition: that is whether the mark sought to be registered by the Applicant was recognized as a formal cultivar name long before Applicant sought to register the name. Pages 40 through 44 are relied upon in particular.

The article describes climbing vines in general. The author specifically mentions Clematis 'Piilu' as a variety of climbing clematis. This publication was produced by

Opposer to Applicant and marked by bates numbers WG0241 through WG0244.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August <u>**3**</u>, 2004

By Barry C. Kane

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Grand Rapids, Michigan 49501-0306

Telephone: (616) 831-1700

# NG0241

# Climbing WALLS

DECORATIVE FOLIAGE,
STUNNING BLOOMS AND
INTERESTING GROWING
PATTERNS MAKE VINES AND
OTHER CLIMBERS POPULAR
CHOICES FOR LANDSCAPES.

Text and photos by
RICK SORENSON

o add a vertical effect to the garden, landscapers have many plants from which to choose. These beauties are so enticing, they have helped many landscapes climb their way to success. Thanks to climbers such as vines, there's a way to decorate existing structures such as buildings or fences, as well as add to decorative support structures such as trellises, pergolas and arches.

For years, vines were known as landscape workhorses. Landscapers and customers alike would often say, "For that hard-to-cover spot, use a vine!" "For that chain link fence, use a vine!" "To cover an unsightly object, use a vine!" Yet, rarely do landscape professionals suggest climbing plants as a main feature or focal point. They should.

Climbers offer year-round interest: They have bold and decorative foliage; beautiful, fragrant flowers; and decorative fruit and seed heads. Many offer brilliant fall color and provide shelter for nesting wildlife. Several climbing plants complement each other and even use each other for support. And thanks to the breeding efforts, collection and distribution of these fabulous plants — many from all over the world — these landscape delights are more available than ever before.

Vines climb in many ways, with leading stems rotating in a circular direction. Some vines have tendrils — coiled or otherwise — which allow the plant to attach itself to trellises, fences or other garden structures. Vines whose tendrils have adhesive discs are better suited for brick or wooden walls. Some climbers have adventitious root systems that twine around a structure, while others have woody stems that twine around each other for support.

Climbers also make great horizontal plants. On recent visits to public gardens in Europe, I saw all kinds of vines growing as groundcovers among mature plants. Using broad-leaved evergreens that flower in early spring to fall is an effective way to create interest in established planting beds.

The plants most often used in most regions of North America tend to be deciduous. However, many evergreen climbers are available. For a striking display of color and texture, landscapers should use combinations of both.

Queen of the Vines. The most recognized and often-used climbing plant is *Clematis* (virgin's bower); species and cultivars of this genus vary in size, growth rate, foliage and flower. Bloom color also ranges — from purples to reds to pinks to whites. Many small-to large-flowering species and varieties abound. While large-flowering plants have generally been popular, more and more people are requesting small-flowering ones. It's really no wonder why many consider this showy plant "queen of the vines."

Some Clematis species do not cling to structures and must be tied to them to grow vertically; others are natural clingers. While many climb up walls and fences beautifully,

new cultivars can be used in smaller-scale gardens, particularly in patio tubs or containers. These plants are useful in urban gardens or areas with limited space.

Cultivars such as these were introduced a few years ago by Raymond Evison, owner of Guernsey Clematis Inc., located in the Guernsey Islands, south of England. Several of them are noted for their April and early May blooms. C. alpina 'Frankie', for example, features medium-blue, nodding flowers, while C. 'Anna-Louise' offers violet blooms with red-purple bars. The deep pink blooms of C. 'Asao' have dark pink edges. C. 'Pink Champagne' has purplish-pink flowers, while the rose mauve flowers of C. 'Ruby Glow' have red anthers.

Evison also introduced cultivars that bloom in May and June. The full, double flowers of C. 'Arctic Queen' are creamywhite with yellow anthers. C. 'Mrs. N. Thompson' features bluish-purple blooms with a petunia bar. C. 'Multi-Blue' has double, blue flowers with white tips. C. 'Sunset' displays red flowers with purple highlights and yellow anthers.

A recent Estonian introduction is C. 'Piilu' (Piilu<sup>™</sup> virgin's bower; photo, bottom), which was bred by plantsman Uno Kivistik. A cross between C. 'Hagley Hybrid' and C. mahrouyi, Piilu is one of the heaviest, prolific bloomers I've seen. Each year, large flowers decorate the plant. Blooms are light purplish-pink with wide, dark-purplish-red bars. Six tepals overlap at the base. The first flowers, which appear in May to June, are double; subsequent blooms are single.

One container and landscape plant that will no doubt be a conversation piece among customers is C. 'Blue Light' (Blue Light™ virgin's bower), which was introduced in the Netherlands by plantsman Frans Van Haastert. A double sport from C. 'Mrs. Cholmondeley', Blue Light is a free-flowering variety that produces masses of large, double, paleblue-violet to pale blue flowers from June to August or September. This plant is available in limited quantities from several US and Canadian nurseries. It will be marketed and distributed to garden centers in spring 2000.

C. × cartmanii 'Avalanche' is a selected seedling from a cross made at Blackthorn Nursery in Hampshire, England, by renowned plantsman Robin White. The pollen parent was C. paniculata, and the seed parent was C. marmoraria, both evergreen species from New Zealand. 'Avalanche' looks beautiful trailing down banks or large rocky areas, and makes a good groundcover. It can also be trained on a wall or fence, or

through deciduous shrubs. Growing 1½ feet to almost 2 feet tall, this cultivar has white flowers that appear on the previous season's wood. This vigorous grower is hardy to 14°.

C. serratifolia 'Kugotia' (Golden Tiara™ virgin's bower; photo, right) is a new outstanding, small, yellow-flowering plant that resembles C. tangutica. Hardy and disease resistant, the prolific flowers of Golden Tiara are thick, golden yellow, and set apart by blackish-purple stamens. The plant flowers from July to the end of October.

In fall, the blooms of Golden Tiara turn to silky, grayish-white seed heads, which add further interest in winter. In midwinter, the plant should be pruned to within 4 feet from the ground to promote fresh growth and more productive flowering.

Golden Tiara is capturing the interest of European gardeners, and can work just as well in American gardens. The breeder is H.J.M. Kuijf from H.J.M. Kuijf and Zonen, Uithoorn, the Netherlands, and the cultivar is currently available from licensed growers, such as Monrovia in Dayton, OR, and Van Belle Nurseries Inc. of Abbotsford, British Columbia, Canada.

In addition to bringing beauty to the landscape, Clematis complements other climbers, including Wisteria (wisteria), Lonicera (honeysuckle) and Hedera (ivy). These climbing plants provide color, fragrance and cut flowers — even year-round, if kept in a conservatory or indoor patio. Bougainvillea, Jasminum (jasmine), Mandevilla, Passiflora (passionflower), Stephanotis and Thunbergia keep the landscape attractive and, when left inside, retain their beauty in winter.

Conversation Pieces. If Clematis is the queen of the vines, Schizophragma hydrangeoides 'Moonlight' ('Moonlight' Japanese hydrangea) is the king. Darkgreen, broad, oval-shaped leaves await the abundant 8- to 10-inch-wide summer inflorescences. Individual flowers are 1 inch long, oval and pale white-yellow. They appear freely all summer. Foliage turns yellow in autumn, and in winter the plant's young reddish stems are visible. Like the genus, 'Moonlight' is somewhat slow to start but worth waiting for.

Mandevilla is another great vine with fabulous cultivars. The elegant climber M. 'Tropical Dreams', for example, features variegated leaves and clusters of trumpet-shaped, 3-inch-wide, bright-yellow flowers. This plant is an excellent choice for the conservatory or patio. It blooms year-round outdoors in Southern



Above: The hardy and disease-resistant Clematis serratifolia 'Kugotia' flowers prolifically.

Below: Clematis 'Piilu' features large, light purplish-pink flowers with wide, dark-purplish-red bars.



The leaves of Actinidia kolomikta (variegated Chinese gooseberry) are heart-shaped: They are half creamywhite, half green and flushed with dark pink tips. This decorative plant adds pizzazz to the garden.

Akebia quinata (five-leaf akebia) is grown for its foliage and small, reddish-purple flowers, which have a spicy vanilla fragrance. It is evergreen in mild winters.

Ampelopsis brevipedunculata 'Elegans' (variegated porcelain berry) is a mouthful of nomenclature but well worth the effort. The species is quite controversial, as several nursery and landscape professionals say it's invasive. Yet, the cultivar is not invasive. For those who are still wary, this plant can be used in containers.

'Elegans' features young, pink shoots and pink and white leaves. Its green summer flowers are followed by small, but numerous, blue-purple berries. (For more information on 'Elegans', see Field Notes in the Aug. 1, 1998, issue. — Ed.)

Aristolochia durior (Dutchman's-pipe) features enormous 6-inch-long, 8-inchwide, heart-shaped leaves. Its yellow-green flowers are inconspicuous, but quite interesting when viewed up close: They're inflated, tubular and bent, re-

Lonicera × 'Mandarin' is a vigorous, deciduous woody vine that spices up the landscape.





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sembling a siphon or small smoker's pipe, thus the common name.

Campsis × tagliabuana 'Kudian' (Indian Summer™ trumpet creeper) is an attractive plant that produces abundant blooms from July to October. When grown in a pot in a greenhouse, the flowers are more an orange color with orange-red throats and red stripes running lengthwise.

Indian Summer does not grow as tall as other C. × tagliabuana varieties, making it an attractive pot plant for the consumer. Grown against a wall, this climber starts flowering quite well within a few years. It is hardy in zones 4 to 10. Propagation is prohibited.

Recently Indian Summer received the Gold Medal for Best New Plant Introduction at the Plantarium 1998 Exhibition held at Boskoop, Holland. The breeder is H.J.M. Kuijf and Zonen. This outstanding vine is offered in limited quantities by several licensed growers in the US and Canada. This plant will be marketed and distributed to garden centers in spring 2000.

CLIMBERS OFFER YEAR-ROUND

INTEREST: THEY HAVE
BOLD AND DECORATIVE
FOLIAGE; BEAUTIFUL,
FRAGRANT FLOWERS;
AND DECORATIVE FRUIT

AND SEED HEADS.

Hydrangea anomala subsp. petiolaris (climbing hydrangea) is the best known of the climbing hydrangeas. In midsummer, white flowers appear in flat-topped clusters, and the bark effectively peels; with age. This plant attaches by aerial roots produced on the stems.

Jasminum officinale 'Frojas' (Fiona Sunrise™ poet's jessamine) is a new plant discovered in a batch of seedlings at Fromefield Nurseries in Hampshire, England, by owner David West. Because the plant is derived from a gold-foliaged seedling rather than a sported branch, it probably will not revert to its typical state. It's described in English trade journals as "undoubtedly the best yellow-leaved climber in the market today." Fiona Sunrise flowers from May to September with scented, white flowers. New spring foliage is yellow and tinged with red. Summer leaves are lush and bright yellow, followed in autumn by glorious gold foliage that lasts well

into winter, if mild weather permits,

Lonicera × 'Mandarin' (Mandarin' honeysuckle; photo, page 42) is an introduction from the University of British Columbia, Vancouver, Canada. The plant is a cross between L. brownii 'Dropmore Scarlet' and L. tragophylla.

Mandarin is a vigorous, deciduous woody vine that reaches slightly more than 2 feet tall. Young stems are dark purplish-brown, and the glossy leaves are 2 inches long and more than 1 inchwide. Young foliage is dark coppery brown and turns dark green at maturity.

In Vancouver, large flower heads appear in May and June, and continue periodically throughout summer. Individual flowers are tubular — 2 inches to almost 3 inches long — and are dark reddish-orange outside and pale yellow orange inside. Nonfragrant blooms are an intense orange, hence the trademarked name. They complement the foliage and stem colors well.

Mandarin is available from Bailey Nurseries Inc., St. Paul, MN, and from selected growers in Canada. Contact Bruce MacDonald of the University of British Columbia.

Parthenocissus tricuspidata 'Green Spring' ('Green Spring' Boston ivy) has large, heart-shaped, shiny foliage throughout the growing season and well into fall. Autumn color is rich scarlet and crimson.

Wisteria floribunda 'Violacea Plena' ('Violacea Plena' Japanese wisteria) is a vigorous vine that twines clockwise. Its rich-lilac, double flowers droop in slender, 1-foot racemes. Blooms appear in late spring to early summer. This is the only double-flowering W. floribunda cultivar.

W. sinensis (Chinese wisteria) is, without question, the most popular Wisteria species. Twining counterclockwise, it has many interesting cultivars. 'Caroline', for example', has blue to purple flowers, 'Domino' features mauve blooms, and 'Issai' has blue ones. Boasting pink and cream flowers is the aptly named 'Peaches & Cream'. Another appropriately named cultivar is 'Pink Ice', which sports pink blooms. 'Premature' has mauve flowers, while 'Prolific', 'Purple Patches' and 'Snow Showers' have blue, purple and white blooms, respectively.

Because these amazing climbers readily attach themselves to garden structures, they add a nice touch to the landscape. Use them in your garden designs, and they will attach themselves to customers' hearts as well.

Rick Sorenson is the owner of Pride of Place Plants Inc. in Sidney, British Columbia, Canada.

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

WALTERS GARDENS, INC.	)		
Opposer, vs.	) )	Opposition N	No. 91153755
PRIDE OF PLACE PLANTS, INC.	) ) )	Mark: Serial Nos:	PIILU 76/201/447
Applicant.	)	Filed:	January 29, 2001
	)		

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#### NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its intent to rely upon a book available to the general public in libraries or in general circulation and among members of the public or that segment of the public which is relevant to the issue of the opposition. In particular, Opposer intends to rely upon "Choosing your Clematis" authored by John Howells. The book was published in 2000 and assigned ISBN 1 870673 37 9. The cover and inside pages, page 57 and 126 will be relied upon in particular. This publication was produced by Opposer to Applicant, identified by Bates numbers WG0355 through WG0362.

"Choosing your Clematis is relevant to whether the mark Applicant seeks to register is recognized by authorities as a cultivar name or plant variety. The author of the book is a recognized expert in the field of horticulture, and in particular to the genus Clematis. Testimony by experts in the field of horticulture, and in particular to the genus Clematis reveal that this publication is authored by an authority in the field of Clematis.

Page 126 of the text shows that 'Piilu' is listed in Group VII, Large Late. Bates document WG0360 illustrates a photograph of the plant *Clematis* 'Piilu' within that text.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August 3, 2004

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PO Box 306

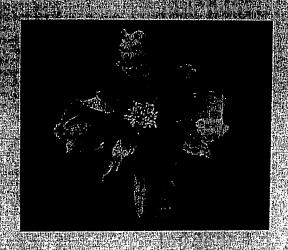
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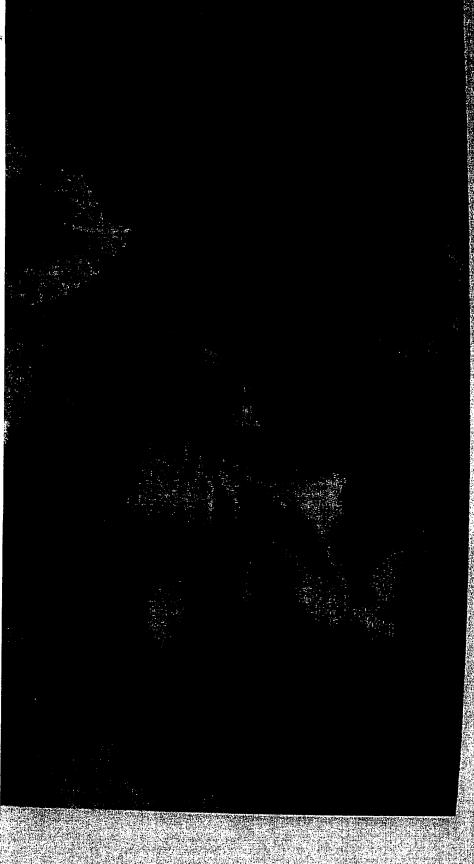
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Clematis Pillu. Photo by V. Miettinen.

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# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

WALTERS GARDENS, INC.	)		
Opposer, vs.	)	Opposition N	No. 91153755
PRIDE OF PLACE PLANTS, INC.	) ) )	Mark: Serial Nos:	PIILU 76/201/447
Applicant.	)	Filed:	January 29, 2001
	)		

To: Gary J. Nelson CHRISTIE, PARKER & HALE, LLP Attorneys for Applicant 350 W. Colorado Blvd., Suite 500 P.O. Box 7068 Pasadena, California 91109-7068 (626) 795-9900

#### NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its intent to rely upon an article entitled, "Christmastime brings its own surprices." The article was published in the Features Section, Section E of the December 22, 2002 edition of the Alexandria Daily Town Talk newspaper The author, Lilly Rabalais, writes about gardening and in particular, about plants that she has in her garden. The entire article is relied upon by Opposer.

This newspaper report was in general circulation among members of the public in late 2002, and particularly that segment of gardening enthusiasts. The content of the article is relevant to the issue of the opposition: that is whether the mark sought to be registered by the Applicant was recognized by the gardening public as a formal cultivar name. The article specifically mentions "Clematis 'piilu' [as] an award-winning recent hybrid..." She goes on to refer to the plant by its cultivar name in the sentence: "Best of all Piilu blooms the first year!"

This article was submitted by Opposer to Applicant as Bates numbers WG0262-WG0264, and also as WG0421-WG0422.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August 31, 2004

Barry C. Kane

Business Address:

250 Monroe Avenue, N.W., Suite 800

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Telephone: (616) 831-1700



Rank(R) 1 of 1

Page

Database ALLNEWS

Citation Search Result 12/22/02 TOWNTALK 4

12/22/02 Alexandria Daily Town Talk 4 2002 WL 102479445

(Publication page references are not available for this document.)

Alexandria Daily Town Talk
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Sunday, December 22, 2002

Features; E

Christmastime brings its own surprises
Lilly Rabalais
Freelance OK

#### LILLY RABALAIS

I apologize for being so late with the current gardening news; however, as this is December and a really slow month for gardeners I'm sure you will forgive me. I hope all of you have bought your all your Christmas gifts and are just waiting for the day. It's really nice that we have had all this rain so we have not had to water our gardens. My pansies and snapdragons are doing great and I have a few roses blooming. Can you imagine having roses blooming at this time of year? My Jackmani clematis has a few blooms on it also.

Now is a great time to peruse all those gardening catalogs you have been receiving and start planning next year's garden. I have listed below some of the new offerings available by mail order; however, I am hoping that some of the local nurseries in our area will be selling them. I always prefer to buy locally as it helps the economy; the plants are larger, sturdier and less expensive.

The first perennial red coreopsis named 'Limerock Ruby' is available from mail order catalogs. It's large blooms are 1 1/2 inches wide, colorful, profuse and the plant's low, spreading habit covers the ground beautifully, and best of all, it blooms all summer.

The first ever double Echinacea (coneflower) named 'Razzmatazz' is available in a bright pink. The 30 -inch plant sports large 3-4 inch plants and will last 2 weeds in a vase. Hibiscus 'Blue Bird' is grafted on a 4-foot stem (it's a tree) is a gorgeous azure color and is perfect for an entryway, deck or patio. It produces 3-inch blooms with blue petals and a prominent cream-colored central cone ringed in red. This mibiscus as other hibiscus prefers full sun but will bloom very well in 4-5 hours of sun in our area.

[ sincerely hope the newly developed azalea ' Colonel Mosby' is

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#### 12/22/02 TOWNTALK 4 (Publication page references are not available for this document.)

available in our local nurseries. This is a recent introduction and is bicolored, heat tolerant, vigorous and cold hardy. Late spring brings 6-8 inch flower heads, each formed from with pin-red blooms, highlighted with golden yellow on their upper petals. It is mildew resistant and prefers partial shade and slightly acidic soil.

New rose 'Celebrity' is a fragrant sun lover and won't fade in summer heat.

Each 4-5 inch flower has 30 to 40 petals occasionally brushed with crimson.

Another new roses is 'Cherry Parfait' and is a heavy-blooming disease resistant grandiflora with red-edged white blossoms that darken as they mature. It is reportedly never out of bloom, regaling you with 4-inch blossoms all summer.

Two new repeat continual blooming daylilies are a sight to behold. 'When My Sweetheart Returns' has an extraordinary color combination on a repeat bloomer. It sports 3-4 inch primrose blooms with rosy eye zones and green throat. 'Romantic Returns' has 5-inch rosy pink blooms for masses of color on a continual-blooming daylily. Try these new gorgeous daylilies.

Buddleia 'Bicolor' is an exciting new color breakthrough. It is the first buddleia to offer two completely different colors on the same stalk -- rich butterscotch yellow and frosty raspberry lavender. The fragrant bloom trusses usually 5-6 inches long can reach up to 10 inches by the end of the summer. It reached 6 feet in height and 5 feet in width and likes full sun.

Hydrangea serrata(lace cap hydrangea) 'Kiyosumi'has a striking combination of soft pink outer blooms edged in red, shell pink inner florets and a deep burgundy foliage. It is extremely hardy and vigorous, reaching 30-40 inches in height and 36 inches in width the first year. It is ideal for borders and large containers. As summer arrives, the 5-inch pink blooms turn to white, but are never without the distinctive red edging. It thrives in part shade.

Clematis 'Piilu' is an award-winning recent hybrid and is unsurpassed for growing in large containers. It bears large 4-4 inch flowers, appearing first in the late spring on old wood, then again in late summer on young shoots. The flowers are light violet-pink with wide purple bars, and are often double during the first bloom. Best of all Piilu blooms the first year! It is very hardy and compact and grows to approximately 6 feet.

I will be keeping you posted on some of the new offerings for the coming jardening year. Be adventurous and try something new.

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#### 12/22/02 TOWNTALK 4

(Publication page references are not available for this document.)

I wish each and every one of you a Merry Christmas and a very prosperous and Happy New Year!

lillyr@cox-internet.com

---- INDEX REFERENCES ----

KEY WORDS:

GARDEN GARDENING

NEWS SUBJECT:

English language content (ENGL)

REGION:

United States; United States; North American Countries (US

USA NAMZ)

Word Count: 752 12/22/02 TOWNTALK 4 END OF DOCUMENT

WG0264

Parvin Chevallier.

The bride elect attended Atlanta High School and is a graduate of ABeka Christian College. She received an associate's degree in business from Louisiana State University at Alexandria. She currently attends Northwestern State University. Chevallier is a graduate of Pineville High School.

honor, and Travis Shuler was best man. Crystal Vidrine, Patricia Mertens, Chantelle Taylor and Courtney Stokes were bridesmaids. Taylor Smith, Trey Brodnax, Daryl

Mrs. Rocky Stokes

Vidrine and Kyle Holston were groomsmen. Lana Vidrine was flower girl, and Taylor Trimble and Dillon Stokes were ring

A reception was held at 89 Cotile Drive.

# Christmastime brings its own surprises

I apologize for being so late with the current gardening news; however, as this is December and a really slow month for gardeners I'm sure you will forgive me. I hope all of you have bought your all your Christmas gifts and are just waiting for the day. It's really nice that we have had all this rain so we have not had to water our gardens. My pansies and snapdragons are doing great and I have a few roses blooming. Can you imagine having roses blooming at this time of year? My Jackmani clematis has a few blooms on it also.

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The first ever double



LILLY RABALAIS

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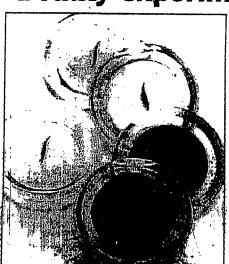
Clematis 'Piilu' award winning recent hybrid and is unsurpassed for growing in large containers. It bears large 4-4 1/2 inch flowers, appearing first in the late spring on old wood, then again in late summer on young shoots. The flowers are light violet-pink with wide purple bars, and are often double during the first bloom. Best of all Pillu blooms the first year! It is very hardy and compact and grows to approximately 6 feet.

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I wish each and every one of you a Merry Christmas and a very prosperous and Happy .New Year!

lillyr@cox-internet.com

# Beauty experiments can produce stunning results



Alexandra Daily

By Samantha Critchell Associated Press

NEW YORK -- New year, new look, right? Tis the time to test out the self-tanner that was purchased over the summer but is still in the box, or the liquid eyeliner that you haven't figured out how to use.

These beauty projects shouldn't be rushed, though. Take an hour or two to play with some new cosmetics and to allow their looks to sink in - mentally and physically.

Most changes, even subtle ones, require an adjustment: Think of all the double takes in the mirror after a haircut. Body glitter or electric-blue eye makeup surely would have a more exaggerated effect.

But the results can be worth it when a beauty routine is successfully updated and one's assets are further enhanced, says Charlie Green, makeup artist for Sephora

Don't get stuck in the color-by-numbers

a dab of bright blue or violet on the inner corner of the lid while the rest of the eyelid is covered in a light pastel shade.

Meanwhile, applying liquid eyeliner is as dramatic as the aesthetic result. To do it correctly, a steady-but-delicate hand and the proper tools are required.

Green recommends using a small, thin brush from an art store; the brush that comes with the eyeliner typically is too thick and will create a blotchy line, she says. (The art brushes cost about \$1.)

Use the art brush to dab off some color from the applicator brush. Then start at the outer corner of the lid and stroke the art brush in a thin line as close to the lash line as you can get, going no more than twothirds of the way in.

If you want to create more of a cat eye use the eyeliner only to cover the outer one third of the lid

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By Carol E UNIVERSAL PR

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# A nip here and there just the tonic for tired shrubs in need of pruning

By John Van de Water

FOR THE STAR-LEDGER

Late winter is the best time to prune deciduous flowering shrubs. The plants are loaded with nutrients and ready to take off. They respond with new growth and lots more flow-. ers a year later. The bare branches are easy to get at, so we can do a neat job with minimum effort.

Some hardy gardeners can be seen out with pruning shears on milder days in January. But for most of us, the best time for snipping and lopping is late February and early March.

To keep the plants in good health, first concern should be to prune out dead wood and broken branches. Then thin out dense growth to improve appearance and increase bloom. You can stimulate fresh new growth and get more flowers by removing a third of the old branches close to the ground.

Several of our most popular flowering shrubs age poorly. They become straggly with bare lower branches and just a few flowers, often only at the top. They need severe pruning to bring them back into shape.

To get completely fresh new growth, cut them down to the ground now. But note that this treatment is not something you can apply with abandon. Only about a dozen or so of our common flowering shrubs will put up with it. Among these are lilacs, forsythia, tail deutzia, weigela, kolkwitzia (beauty-bush), privet, spirea, rose-of-Sharon (shrub althea), honeysuckle, mockorange, peegee and bigleaf hydrangeas, winged euonymus and beauty-bush.

One drawback is that most of these shrubs bloom in the spring and you lose all flowers by cutting them down now. If you don't want to lose the spring bloom, use the strategy of cutting out one third of the branches three years in a row. It will take a little longer, but you'll have a new shrub in four years.

Note that the beautybush (Buddleia) is a semi-shrub and should be cut down to the ground by spring each year. It will grow back with lots of flowers from late July well into September.



PHOTO BY RICHARD RASKA

Forsythia is one bush that can use pruning to stimulate new growth.

#### Long-blooming clematis

A clematis specialist in Massachusetts is introducing four new longblooming clematis varieties that were developed in Europe, 'Piilu' from Estonia is a 6-foot climber that bears purple-pink flowers with dark red bars during a good part of the summer. First flowers in May and June are double. It blooms again later in the season with single flowers.

The others come from Holland. 'My Angel climbs to 9 feet and bears small flowers, purple outside and yellow inside with creamy edges. It blooms from August through Octo-

'Blue Light' produces big 10-inch pale-blue flowers from old wood in the spring and new wood in the fall. It grows to 8 feet. 'Blue Moon' is a bit smaller, with 6-inch lilac flowers in May and June and again in August.

All are offered by Completely Clematis Specialty Nursery, 217 Argilla Road, Ipswich, MA 01938 (978-356-3197).

#### Hot plants

Ever wonder how some plants: manage to grow through snow and ice? Typical is the skunkcabbage whose flower buds pop up in late February or early March regardless of the weather.

The growth process always liberates some heat, but some plants mostly in the arum family like the skunkcabbage - get warm enough to melt snow and ice.

These plants are able to switch their metabolic chemistry to make more heat. An extreme case is the voodoo lily, a denizen of cold tropical mountains, which can raise its temperature as much as 25 degrees.

#### Colorful poppies

The Oriental poppies are garden favorites, but they're perennials, grow 3 feet tall, and come only in red. If you want more compact plants with multicolored flowers, try the Iceland poppy, a biennial that's treated like an annual.

Papaver nudicaule is good for bedding out or as a cut flower. Seeds are sown directly out in the garden as early as April, and the plants bloom from summer through fall.

Named varieties are 'Wonderland,' 'Partyfun' and 'Garden Gnome,' but all grow about the same and come in mixed colors. Seeds are available from Park Seed (800) 845-3369, Stokes Seed (800) 396-8238 and Thompson & Morgan (800) 274-7333.

### To contact us

Home & Garden Editor:

Deborah Jerome-Cohen, (973) 877-1787

Fax: (973) 877-5845 or 242-5967

E-mail: home@starledger.com

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To: Gary J. Nelson CHRISTIE, PARKER & HALE, LLP Attorneys for Applicant 350 W. Colorado Blvd., Suite 500 P.O. Box 7068 Pasadena, California 91109-7068 (626) 795-9900

#### NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its intent to rely upon an article entitled, "Versatile Clematis Colors the Seasons" by Joan Hinkemeyer, and published in the Friday, May 28, 2004 Gardening Spotlight Section of the Rocky Mountain News newspaper. The entire article will be relied upon by Opposer.

The article is addressed generally to Clematis and their appeal for certain applications. In the information box appearing in the article, "Piilu" is specifically mentioned under the Spring/Fall Reblooming heading. No other reference to the genus name or the trademark designation is mentioned by the author.

The document was produced by Opposer to Applicant and identified by Bates numbers WG0401, WG0402 and WG0403. This newspaper report was in general circulation among members of the public in May 2004, and particularly that segment in the Denver, Colorado metropolitan area who are gardening enthusiasts. The content of the article is relevant to the issue of the opposition: that is whether the mark sought to be

registered by the Applicant was recognized by the gardening public as a proper name for a variety or cultivar of Clematis.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August 31, 2004

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Page

Citation 5/28/04 RKYMN 15L

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Rank(R) 1 of 2

Database ALLNEWS

5/28/04 Rocky Mtn. News 15L 2004 WL 58497178

Rocky Mountain News

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Friday, May 28, 2004

GARDENING / SPOTLIGHT

VERSATILE CLEMATIS COLORS THE SEASONS

Joan Hinkemeyer, Special To The News

When space is at a premium, smart gardeners consider vines. One of the loveliest is the clematis, a well-mannered vine that knows its place if it's given a strong support for climbing. With nearly 300 species, ranging from those that climb just a few feet to the more energetic ones that will scramble 10 to 15 feet high, this versatile vine needs more exposure in our gardens. Clematis will offer us flowers from June until frost if we select carefully, yet many gardeners visualize only the show-stopping Jackmanii cultivar with its large, deep purple flowers that cascade over porches and trellises in June. Other varieties that bloom later in the spring, summer or even rebloom in early fall have flowers in pale blue, pink, red, magenta or white.

The real star of the autumn clematis show is Clematis terniflora, sometimes referred to as the sweet autumn clematis. Instead of growing upright, this rambunctious vine is best grown along a sturdy fence where its tiny white flowers are well displayed.

The glorious cloud of white blossoms revitalizes a lackluster early autumn landscape and contrasts well against the darker foliage of shrubs and trees. Not to be outdone by the brilliant hues of October landscapes, it later produces another show with silvery feathery seed heads.

Not all clematis are vines. Some of the lesser-knowns are smaller herbaceous varieties that work well as dense groundcovers. Instead of the large extravagant flowers produced by the hybrid climbers, these may display small bell-shaped flowers such as those produced by Clematis hirsutissina, "Garden Club of Denver." This plant has dark violet flowers, silky seed heads and shiny hairs covering both foliage and stems.

The Denver Water Department this year unveiled another, lesser- known herbaceous native clematis. Clematis scottii is a ground- hugger that reaches a mere 10 inches in height.

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#### 5/28/04 RKYMN 15L

To care for clematis, choose a sunny location with rich well- drained soil. Use mulch or plant low-growing perennials or annuals at the base of the plants to keep the vine's "feet" cool. The crowns should be planted at least three inches below the soil surface and the vines should receive even, but not excessive, moisture.

The herbaceous clematis can tolerate more sun and drier conditions, making them suitable for southern exposures.

When and how to prune a clematis vine always puzzles gardeners. It actually is fairly simple, since it depends on when a particular plant blooms. Early spring flowering species produce flowers from the previous year's growth and should be pruned soon after flowering to enable the plant to produce robust growth for the next season.

Plants that bloom in summer or fall should be severely pruned down to 12 to 18 inches above the soil in very early spring because the new growth will produce the blossom nodes for the season. Never be afraid to prune. It revitalizes all plants and stimulates the plant into expending its energy into producing new growth rather than struggling fruitlessly against dead growth.

Since vining clematis are heavy feeders, a liquid food or a granular fertilizer applied during the summer growing season will be beneficial. Some gardeners also swear by the positive effects of bone meal lightly incorporated into the soil.

The undemanding clematis offers so much beauty that it's a natural to fit into a corner of every landscape.

#### INFOBOX

#### Favorites

Spring blooming \* "Elisa Spath" - lavender flowers

Spring/fall reblooming \* Piilu" - deep pink flowers (sometimes double)

- \* "Nelly Moser" pink/ white variegated flowers
- \* "Dr. Ruppel" pink/white variegated flowers

Summer \* "Niobe" - deep red flowers

Summer to fall

- \* "Snow Queen" white flowers
- \* "Will Goodwin" true blue flowers
- \* "Madame Julia Correvon" rosy red flowers
- \* "Captain Thuilleaux" deep pink flowers

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5/28/04 RKYMN 15L

TABULAR OR GRAPHIC MATERIAL SET FORTH IN THIS DOCUMENT IS NOT DISPLAYABLE Photo; Caption: Piilu

---- INDEX REFERENCES ----

NEWS SUBJECT: (Living/Lifestyle (GLIFE); Political/General News (GCAT))

INDUSTRY: (Floriculture/Plant Nurseries (I0100201); Agriculture/

Forestry (I0); Horticulture (I01002))

REGION: (United States - Colorado (USCO); North American Countries

(NAMZ); United States (USA); Western U.S. (USW))

Language: EN

EDITION: FINAL

Word Count: 640

5/28/04 RKYMN 15L

END OF DOCUMENT

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

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Opposer hereby notifies Applicant of its intent to rely upon postings appearing on Internet site for the Garden Web's Garden Search Engine. Each of the posting is self authenticating in that the identity of the author exists in the form of a username, the State of the author is indicated, the posting is dated, and is verifiable to exist at the time of this submission.

This online periodical is available to the general public and of general circulation among members of the public and to that segment of the public which is relevant to the issue in this proceeding. The comments posted appear to be voluntary, unsolicited, and directly concerning the names or form of identification used for a particular variety or Clematis plant by the general public. The attached is an electronically generated document produced by Opposer to Applicant and identified by Bate numbers WG0267 – WG0275.

The document shows questions posted by the public concerning Clematis in general, and 'Piilu' in particular in many cases. For example, Box 1 is posted by an

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author located in Florida on Tuesday May 18, 2004 at 12:56 p.m., and specifically addresses Clematis 'Piilu.' Box 2 is titled, "My new Piilu is blooming!!" The other boxes in the document make special reference to Piilu.

The content of the article is relevant to the issue of the opposition: that is whether the mark sought to be registered by the Applicant is currently recognized by the gardening public as a proper name for a variety or cultivar of Clematis.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August 3 , 2004

Barry C. Kane

Business Address:

250 Monroe Avenue, N.W., Suite 800

PO Box 306

Grand Rapids, Michigan 49501-0306

Telephone: (616) 831-1700



# GardenWeb's Garden Search Engine

Search results for: piilu

#### There were 9 matches.

#### Is there more then one variaty of 'Piilu'?

- Posted by: floweryearth z10 FL on Tue, May 18, 04 at 12:56
- 3 follow-ups, last one posted on Tue, May 18, 04 at 16:27 I just bought a piilu from wayside's big sale. I went to google's image finder, and typed in something like "piilu clematis". I got many pictures named piilu, most of which had single blooms. The whole reason I got it was because I thought it w

Forum Message - Found at: Clematis Forum

#### My new Piilu is blooming!!

- Posted by: Peg\_In\_Oregon zone 8/OR coast on Wed, May 26, 04 at 16:56
- 1 follow-up, posted on Wed, May 26, 04 at 17:52

  And it's just as beautiful as the picture on this site. I love it! Follow-Up Postings: RE: My new Piilu is blooming!! Posted by: Vickster Z6bNJ (Return to the Clematis Forum | Post a Follow-Up My new Piilu

Forum Message - Found at: Clematis Forum

#### Too Late to Plant!

- Posted by: Judy\_4 4MN on Mon, Jun 7, 04 at 21:59
- 2 follow-ups, last one posted on Tue, Jun 8, 04 at 8:51 Would it be too late to plant a Piilu clematis at the end of June? I live in zone 4. Has any one else done this? Do you like Piilu? Follow-Up Postings: RE: Too Late to Plant! Posted by: treacle Z6 NY (Return to the Clemati

Forum Message - Found at: Clematis Forum

#### Clematis in pots

- Posted by: Sandalwood z4b N.B. Canada on Wed, May 5, 04 at 20:41
- 3 follow-ups, last one posted on Thu, May 6, 04 at 9:56 I started two Clematis in 22 inch pots last spring. I thought they were the hardier varieties; Piilu and Minister. I have yet to see any buds or life yet. Are Clematis grown in pots a little slower to wake up then in the ground? The soil in the po

Forum Message - Found at: Clematis Forum

#### Sources of Estonian Kivistik clematis varieties

- Posted by: ellenh Z6 NJ on Fri, Jun 4, 04 at 21:35
  - 1 follow-up, posted on Fri, Jun 4, 04 at 22:33

Does anyone know of source for the clematis varieties which were developed by Uno Kivistik of Estonia. I can find Piilu - the most common one, but I'm looking for more. They seem to be alot more common in England. Follow-Up Postings:

Forum Message - Found at: Clematis Forum

#### Kivistik Clematis-- HELP

• Posted by: Mary\_Lu z4 WI on Thu, Apr 29, 04 at 18:07 I just came across Kivistik clematis in our local garden center. I had not heard of these before. Are they class 3, hard prune? It said they bloom on new wood? Are they hardy in zone 4? They had several varieties. Silmokavi, Kullus, Ruute

Forum Message - Found at: Vines Forum

#### estonian clematis anyone?

- Posted by: jetred 3 on Tue, Feb 3, 04 at 23:37
- 2 follow-ups, last one posted on Sun, Feb 8, 04 at 13:32 Hi Everyone Just looking and dreaming through the seed catalogues. A question. Has anyone tried the Estonian clematis varieties? T&T Seeds has three listed in their 2004 catlogue: Reimen, Kullus, and Ruutel. I would love to hear abo

Forum Message - Found at: Far North Gardening Forum

#### **Clematis Planting Conditions**

- Posted by: CheryleB 3 on Mon, Jun 7, 04 at 23:13
  - 1 follow-up, posted on Tue, Jun 8, 04 at 11:08
- Hi everyone, I went to a nursery today (T&T in Winnipeg) and picked up a few pretties including three Estonia clematis. They are a new hybrid dwarf clematis that was developed for extreme climates. The flowers are 5-6" in diameter and the pl

Forum Message - Found at: Far North Gardening Forum

#### Good pink for west side gets lots of sun!

- Posted by: Judy\_4 4MN on Tue, Jun 8, 04 at 13:30
  - 1 follow-up, posted on Tue, Jun 8, 04 at 16:28
- What's a Good pink for west side gets lots of sun. I live in zone 4. I was thinking about gettting Piilu. I also have Dr Ruppel, Carnaby & The President on the West side. Follow-Up Postings: RE: Good pink for west side gets lots of

Forum Message - Found at: Clematis Forum

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## Is there more then one variaty of 'Piilu'?

Posted by floweryearth z10 FL (My Page) on Tue, May 18, 04 at 12:56

I just bought a piilu from wayside's big sale. I went to google's image finder, and typed in something like "piilu clematis". I got many pictures named piilu, most of which had single blooms. The whole reason I got it was because I thought it was supposed to be at least semi-double! What I was wondering is if piilu will sometimes have single blooms or if I was seeing the wrong photos. THANKS!

#### Follow-Up Postings:



#### RE: Is there more then one variaty of 'Piilu'?

• Posted by: CharlotteV Zone 4-4b (My Page) on Tue, May 18, 04 at 13:03

I have one, it is only in its second year, but the few blossoms it had were definitely single. Wouldn't it be exciting if there were doubles!!!



#### RE: Is there more then one variaty of 'Piilu'?

• Posted by: nckvilledudes z7 NC (My Page) on Tue, May 18, 04 at 14:42

Piilu tends to have single blooms on new wood and double blooms on old wood.

Here is a link that might be useful: Clematis on the Web



#### RE: Is there more then one variaty of 'Piilu'?

• Posted by: floweryearth z10 FL (My Page) on Tue, May 18, 04 at 16:27

Please Note: Only registered members are able to post messages to this forum.

thanks. I was worried that it might always be single (not that I really have a problem with that.) When I saw it's picture on wayside's page, what attracted me to it was it's semi double blooms. Once again, thanks for the info!:)

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Is there more then one variaty of 'Piilu'?

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## Too Late to Plant!

Posted by Judy 4 4MN (My Page) on Mon, Jun 7, 04 at 21:59

Would it be too late to plant a Piilu clematis at the end of June? I live in zone 4. Has any one else done this? Do you like Piilu?

#### Follow-Up Postings:



#### RE: Too Late to Plant!

• Posted by: treacle Z6 NY (My Page) on Tue, Jun 8, 04 at 0:13

You can plant it. You just need to be attentive to it's watering needs. You wouldn't want to move an established plant now but planting one from a pot is Okay.

#### RE: Too Late to Plant!

• Posted by: diveanddig z6 NY USA (diveanddig@aol.com) on Tue, Jun 8, 04 at 8:51

Clematis can be planted all summer long and even into the fall.

Bill Bird zone 6 NY

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## Clematis in pots

Posted by Sandalwood z4b N.B. Canada (My Page) on Wed, May 5, 04 at 20:41

I started two Clematis in 22 inch pots last spring. I thought they were the hardier varieties; Piilu and Minister. I have yet to see any buds or life yet. Are Clematis grown in pots a little slower to wake up then in the ground? The soil in the pot seems cooler than ground temp. I pulled the mulch back a bit to help warm the soil. Should I just be patient or are they dead? Mary

#### Follow-Up Postings:



#### RE: Clematis in pots

• Posted by: Calistoga USDA 9 Ca 15 (My Page) on Wed, May 5, 04 at 21:43

I have many clematis in containers doing very well. You said you started them last spring, do you mean the spring of 2003? If that is true I would dig them up and take a look at what is in the pot. If they were planted spring 2004 I would just wait. Al

#### RE: Clematis in pots

• Posted by: Sandalwood z4b N.B. Canada (My Page) on Thu, May 6, 04 at 5:14

There is a bit of a zone difference between 9 and 4. My ground clematis are just breaking dormancy. Anyone closer to my cold zone? and yes they were planted spring 2003

#### RE: Clematis in pots

• Posted by: kkborre z5 OH (My Page) on Thu, May 6, 04 at 9:56

I had a clematis in a pot (I'm in Zone 5) and had to bring the pot into the garage for the winter to keep the plant from freezing. I know this because last winter I left it out and the plant died. In zone 4 you probably can't leave the pots outside or, you need to sink them in the ground for the winter.

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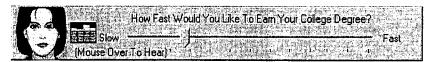
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## Sources of Estonian Kivistik clematis varieties

Posted by ellenh Z6 NJ (My Page) on Fri, Jun 4, 04 at 21:35

Does anyone know of source for the clematis varieties which were developed by Uno Kivistik of Estonia. I can find Piilu - the most common one, but I'm looking for more. They seem to be alot more common in England.

#### Follow-Up Postings:



#### RE: Sources of Estonian Kivistik clematis varieties

• Posted by: mimi856 (My Page) on Fri, Jun 4, 04 at 22:33

Our Lowes has Clematis from a place called Clematis around the world. They also have a website of same name. I got minister, kullus. little duckling reiman and marmori on my list of ones I found.

#### Post a Follow-Up

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# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

WALTERS GARDENS, INC.	)			
Opposer, vs.	) ) )	Opposition No. 91153755		
PRIDE OF PLACE PLANTS, INC.	) )	Mark: Serial No:	PIILU 76/201/447	
Applicant.	) ) ) )	Filed:	January 29, 2001	

To: Gary J. Nelson
CHRISTIE, PARKER & HALE, LLP
Attorneys for Applicant
350 W. Colorado Blvd., Suite 500
P.O. Box 7068
Pasadena, California 91109-7068
(626) 795-9900

#### NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its intent to rely upon a trade publication entitled, "Landscape Trades, Canada's Premier Horticultural Trade Publication" published November December 2001 as Volume 23, No. 9. This publication was produced by Applicant under Applicant's Bates No. POP085. The entire publication will be relied upon by Opposer.

The trade publication contains a comprehensive preview of new annuals, perennials, roses and woody plants, including Clematis 'Piilu.' This periodical is in general circulation among members of the public in November/December of 2001, and particularly that segment of the public in Canada and the United States who are interested in gardening and plants that are hardy enough to survive the northern climates.

The content of the article is relevant to the issue of the opposition: that is whether the mark sought to be registered by the Applicant was recognized by the gardening public as a proper name for a variety or cultivar of Clematis.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August 31, 2004

Barry C. Kane

Business Address:

By

250 Monroe Avenue, N.W., Suite 800

PO Box 306

Grand Rapids, Michigan 49501-0306

Telephone: (616) 831-1700



# LANDSCAPE IRADES

CERROR'S PRAMER HORTICULINANT TRANS PUBLICATION

NOVEMBER
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2001



# 2002 INTRODUCTIONS

A comprehensive preview of new annuals, perennials, roses and woody plants

Garbage into gold — opportunities with waste Special insert: CONGRESS CONFERENCE GUIDE

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

WALTERS GARDENS, INC.	)			
Opposer, vs.	)	Opposition No. 91153755		
PRIDE OF PLACE PLANTS, IN	) IC. )	Mark: Serial Nos:	PIILU 76/201/447	
Applicant.	)	Filed:	January 29, 2001	
To Com I Nober	)			

To: Gary J. Nelson CHRISTIE, PARKER & HALE, LLP Attorneys for Applicant 350 W. Colorado Blvd., Suite 500 P.O. Box 7068 Pasadena, California 91109-7068 (626) 795-9900

#### NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its intent to rely upon an article entitled, "A nip here and there just the tonic for tired shrubs in need of pruning" by John Vande Water. The article was published Wednesday, February 16, 2000 in the Home & Garden Section of the Star-Ledger newspaper in Newark, New Jersey. The entire article will be relied upon by Opposer.

The article specifically mentions that a Clematis specialist in Massachusetts is introducing four new long blooming "Clematis varieties that were developed in Europe. 'Piilu' from Estonia is a 6-foot climber...." The document was produced to Applicant and identified by Bates numbers WG0265 and WG0266

This newspaper report was in general circulation among members of the public in February 2000, and particularly that segment of gardening enthusiasts. The content of

the article is relevant to the issue of the opposition: that is whether the mark sought to be registered by the Applicant was recognized by the gardening public as a cultivar name.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August 3/2, 2004

Barry C. Kane

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Page

Citation 2/16/00 STLGRN 090 Search Result

Rank(R) 2 of 2

Database ALLNEWS

/2/16/00 Star-Ledger (Newark N.J.) 090

(Publication page references are not available for this document.)

The Star-Ledger Newark, NJ (c) 2000. The Star-Ledger. All rights reserved.

Wednesday, February 16, 2000

Home & Garden

A nip here and there just the tonic for tired shrubs in need of pruning John Van de Water

Late winter is the best time to prune deciduous flowering shrubs. The plants are loaded with nutrients and ready to take off. They respond with new growth and lots more flowers a year later. The bare branches are easy to get at, so we can do a neat job with minimum effort.

Some hardy gardeners can be seen out with pruning shears on milder days in January. But for most of us, the best time for snipping and lopping is late February and early March.

To keep the plants in good health, first concern should be to prune out dead wood and broken branches. Then thin out dense growth to improve appearance and increase bloom. You can stimulate fresh new growth and get more flowers by removing a third of the old branches close to the ground.

Several of our most popular flowering shrubs age poorly. They become straggly with bare lower branches and just a few flowers, often only at the top. They need severe pruning to bring them back into shape.

To get completely fresh new growth, cut them down to the ground now. But note that this treatment is not something you can apply with abandon. Only about a dozen or so of our common flowering shrubs will put up with it. Among these are lilacs, forsythia, tail deutzia, weigela, kolkwitzia (beauty-bush), privet, spirea, rose-of-Sharon (shrub althea), honeysuckle, mockorange, peegee and bigleaf hydrangeas, winged euonymus and beauty-bush.

One drawback is that most of these shrubs bloom in the spring and you lose all flowers by cutting them down now. If you don't want to lose the spring bloom, use the strategy of cutting out one third of the branches three years in a row. It will take a little longer, but you'll have a new shrub in four years.

Note that the beautybush (Buddleia) is a semi-shrub and should be cut

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# 2/16/00 STLGRN 090 (Publication page references are not available for this document.)

down to the ground by spring each year. It will grow back with lots of flowers from late July well into September. Long-blooming clematis A clematis specialist in Massachusetts is introducing four new long-blooming clematis varieties that were developed in Europe. 'Piilu' from Estonia is a 6-foot climber that bears purple-pink flowers with dark red bars during a good part of the summer. First flowers in May and June are double. It blooms again later in the season with single flowers.

The others come from Holland. 'My Angel' climbs to 9 feet and bears small flowers, purple outside and yellow inside with creamy edges. It blooms from August through October.

'Blue Light' produces big 10-inch pale-blue flowers from old wood in the spring and new wood in the fall. It grows to 8 feet. 'Blue Moon' is a bit smaller, with 6-inch lilac flowers in May and June and again in August.

All are offered by Completely Clematis Specialty Nursery, 217 Argilla Road, Ipswich, MA 01938 (978-356-3197). Hot plants Ever wonder how some plants manage to grow through snow and ice? Typical is the skunkcabbage whose flower buds pop up in late February or early March regardless of the weather.

The growth process always liberates some heat, but some plants - mostly in the arum family like the skunkcabbage - get warm enough to melt snow and ice.

These plants are able to switch their metabolic chemistry to make more heat. An extreme case is the voodoo lily, a denizen of cold tropical mountains, which can raise its temperature as much as 25 degrees. Colorful poppies

The Oriental poppies are garden favorites, but they're perennials, grow 3 feet tall, and come only in red. If you want more compact plants with multicolored flowers, try the Iceland poppy, a biennial that's treated like an annual.

Papaver nudicaule is good for bedding out or as a cut flower. Seeds are sown directly out in the garden as early as April, and the plants bloom from summer through fall.

Named varieties are 'Wonderland,' 'Partyfun' and 'Garden Gnome,' but all grow about the same and come in mixed colors. Seeds are available from Park Seed (800) 845-3369, Stokes Seed (800) 396-8238 and Thompson & Morgan (800) 274-7333.

TABULAR OR GRAPHIC MATERIAL SET FORTH IN THIS DOCUMENT IS NOT DISPLAYABLE

1. Forsythia is one bush that can use pruning to stimulate new growth.

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In Law.

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TRADEMARK TRIAL AND APPEAL BOARD

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To: Gary J. Nelson CHRISTIE PARKER & HALE	LLP			

To: Gary J. Nelson
CHRISTIE, PARKER & HALE, LLF
Attorneys for Applicant
350 W. Colorado Blvd., Suite 500
P.O. Box 7068
Pasadena, California 91109-7068
(626) 795-9900

#### NOTICE OF RELIANCE UNDER RULE 2.122(E)

Opposer hereby notifies Applicant of its intent to rely upon the documents produced by Applicant in response to or relate to questions posed to Applicant in Opposer's Interrogatories and Requests for Admissions. Presently, Opposer intends to rely upon Applicant's documents POP001 through POP229. Copies of these documents were produced by Applicant to Opposer.

The rules do not require a description of the relevancy of those documents to the discovery requests. However, copies of those discovery requests are attached as well as copies of the Applicant's documents that relate to Applicant's answers.

The content of the attached document relates to the issue of the opposition: that is whether the mark sought to be registered by the Applicant was and continues to be recognized by the gardening public as a proper name for a variety or cultivar of Clematis.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C. Attorneys for Opposer Walters Gardens, Inc.

Dated: August 51, 2004

Barry C. Kane

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